

Town of Amherst  
Zoning Board of Appeals - Special Permit  
*DECISION*

**Applicant:** Jeffrey Krauth  
487 Audubon Road, Leeds, MA 01053

**Owner:** Wentworth Institute of Technology  
550 Huntington Avenue, Boston, MA 02115-5998

**Date Application filed with the Town Clerk:** April 4, 2006

**Nature of request:** Petitioner seeks a Special Permit, under Section 9.22 of the Zoning Bylaw, to expand a non-conforming building and to operate a hot tub spa business.

**Location of property:** 365-377 Main Street  
Map 14B, Parcel 61, COM Zone

**Legal notice:** Published in the Daily Hampshire Gazette on April 17 and 24, 2006, and sent to abutters on April 14, 2006.

**Board members:** Ted Rising, Russ Frank and Jane Ashby

**Submissions:**

Prior to the public hearing on May 1, 2006, the applicants submitted the following documents:

- Notarized Affidavit stating that tenants of 365-377 Main Street have been notified of the public hearing on this application, dated April 17, 2006;
- Management Plan, dated April 1, 2006;
- Aerial photograph of the neighborhood showing locations of proposed parking spaces, dated March 29, 2006;
- Photographs of the building and partial survey plan of the site, dated March 29, 2006;
- Floor plans for proposed renovations in the interior of the first floor and on the roof;
- Elevations and three-dimensional renderings showing the proposed exterior changes to the building.

Prior to the re-opened public hearing on June 20, 2006, the applicants submitted the following documents:

- Letter dated May 23, 2006, requesting reopening of the hearing to consider changes to the plans and the management plan;
- Aerial photograph of the neighborhood showing locations of proposed parking spaces, dated June 20, 2006;
- Photographs of the building and partial survey plan of the site, dated June 20, 2006;
- Revised floor plans, dated June 20, 2006;
- Revised elevations and three-dimensional renderings, dated June 20, 2006;
- Sight-line analysis drawings, dated June 20, 2006;
- Revised Management Plan, dated June 12, 2006.

Town staff submitted the following documents:

- Email and letter from Jason Skeels, Town Engineer, dated April 28, 2006, commenting on the application;
- Memorandum from the Planning Department, dated April 28, 2006, commenting on the application;
- Memorandum from Jonathan Tucker dated April 28, 2006, reporting on the Historical Commission's review of the application.

Members of the public submitted the following documents:

- Letter from Louis S. Greenbaum, dated May 1, 2006, opposing the application;
- Letter from Ted Sherburne, dated April 28, 2006, opposing the application;

**Site Visit:** May 1, 2006

At the site visit the Board was met by Diana and Jeff Krauth, the applicants, and Kyle Wilson of Integrity Builders. Mr. Wilson showed the Board historical photographs of the building as it had looked prior to the fire that destroyed the second floor. He pointed out the wooden roof structure on top of the building and the brick parapet wall, both of which were added in 1984 after the fire.

The Board observed the following:

- The location of the property on a heavily-traveled road across from the Amherst Women's Club and the Boys and Girls Club, in the Dickinson Historic District;
- The position of the building on a small lot, close to the edge of the road, with very little land that is not covered by building or pavement;
- The façade which is made up of brownstone and brick and large plate glass windows;
- The signs and wood panel on the front of the building which are to be removed as part of the renovation;
- The large parking lot in the rear of the building where the applicants are planning to lease parking spaces;
- The on-street, parallel-parking spaces in front of the building;
- The proximity of the nearby three-story buildings, at 409 Main Street and at 351 Main Street, and the potential for sight lines from these buildings to the building under consideration;
- The outdoor space at the rear of the building;
- The existing wooden roof structure;
- The rear door leading to the back yard;
- The interior of the space currently occupied by Fenton's Athletic Supplies;
- The location of the interior stairs used for access to the basement.

**Public Hearing:** May 1, 2006.

At the public hearing Jeffrey and Diana Krauth presented the petition. They made the following comments:

- They owned Beyond Words Bookshop in Northampton for many years and were active in Northampton civic organizations;
- They both work in Amherst at the present time;
- They have spent considerable time researching the hot tube spa business, nationwide and region-wide;
- They looked all over Amherst for a suitable property and found that the location under consideration best suits their needs;
- They were customers and business colleagues of East Heaven Hot Tubs in Northampton and did combined marketing with the owners of East Heaven;

- The building will need to be substantially rebuilt, including new plumbing, a repaired roof and new walls;
- The proximity to downtown will be beneficial for the business;
- This will be a private, quiet business like the one in Northampton which is also in a quiet residential neighborhood;
- East Heaven Hot Tubs in Northampton has not been the subject of noise complaints since it began in business; it has outdoor hot tubs; its building is surrounded by apartment buildings; it doesn't attract rowdy people;
- There will be no music outdoors but music will be provided to the interior enclosures;
- The plans for proposed roof-top enclosures and for the exterior stairway were described; the proposed plans are for an aesthetic, natural, not flashy experience; the design will include earth tones and natural finishes; the lights will be downcast;
- The proposed exterior changes to the building require a Special Permit because they constitute a change to a non-conforming building on a non-conforming lot;
- This establishment will have a strict rule that no inebriated people will be admitted; this is a health and safety issue; since this will be a private establishment the owners can refuse to serve someone who is inebriated or misbehaving;
- Bags will be searched for alcohol; bags will be checked at the counter and not allowed in the enclosures;
- Massage therapy will be offered.

The Board noted that massage was not part of the original application or Management Plan; however, it is allowed under Section 3.351.0 of the Zoning Bylaw with Site Plan Review by the Planning Board and can be incorporated into this Special Permit from the Zoning Board of Appeals, if it is granted.

Jeff and Diana Krauth stated that:

- They are working with the town on issues regarding drainage and water purification;
- They wish to work cooperatively with other local businesses such as inns and B & B's to offer discounts to their clientele.

Kyle Wilson of Integrity Builders presented drawings of the proposal. He noted that the Historical Commission had met with the applicants and was pleased that the signs and the roof structure may be changed and improved as a result of the renovations.

Diana Krauth and Kyle Wilson presented the plans, elevations and 3-dimensional renderings showing the following:

- 3 rooms with hot tubs on the first floor, a handicapped-accessible bathroom, an office and exterior stairs going up to the roof;
- 4 rooms with hot tubs on the roof-top, open to the sky, with a common covered walkway, each enclosure with a shower and a private entrance;
- The rear, covered stairway, enclosed half-way up but with the upper stairway open;
- The elevation of the front of the building at 365-377 Main Street with elevations of the buildings on the east and west sides, showing sight lines from the upper floors and balconies of 409 Main Street and from 351 Main Street as well as from the second floor of the Bruno's Pizza building.

The building façade is proposed to be renovated by removing the wooden board and signs. The underlying façade will remain intact.

Mr. Krauth noted that he is concerned about the privacy of his clients vis-à-vis views from adjacent properties and will design the enclosures to prevent privacy infringements.

Mr. Wilson noted that there are two separate roofs on the two adjacent buildings, the roof for the former Hapco space and the roof for the Fenton's space.

Mr. Rising noted that there is currently a 6" step up to the front door of the building and he inquired about proposed universal access to the lobby. He also asked about access to bathrooms and hot tubs. Ms. Krauth stated that there was a possibility of ramping outside the building on the sidewalk or inside the building for access at the front door. The applicants are interested in providing handicapped access and have spoken with the Americans with Disabilities office in Washington, D.C. to determine what the requirements are. The applicants propose to have at least one of the hot tub enclosures and possibly three of them accessible to people with disabilities in addition to accessible bathrooms.

Ms. Ashby asked about the exterior stairway and stated that a partially open stairway might generate noise which would be disturbing to neighbors as well as to clients of the hot tub establishment. She recommended that the stairway be entirely enclosed to prevent noise problems.

Mr. Frank asked whether there would be music outdoors. The applicants responded that there would be no music outdoors. They went on to say that the outdoor hot tubs would be used all year and that December and February are likely to be the busiest times. July and August are "down times".

Mark Snow, Assistant Building Commissioner, stated that accessibility was an issue that was yet to be resolved. He also had questions about structural design and enclosure walls and about the setback from the rear property line.

The existing side yard setbacks are non-conforming at zero feet. Twenty-five feet is the required setback. The front yard setback is also non-conforming at 13'-0". Twenty feet is required. Footnote "a" in the dimensional table allows the Zoning Board to modify these requirements under a Special Permit.

The exterior stairs proposed as part of the original application were to be 10'-8" from the rear property line, a dimensional deviation that the Board could choose to allow.

There will be life safety systems installed in the building. The Inspection Services Department will require a "Chapter 34" and a "Chapter 9" narrative by an architect or engineer, dealing with renovation and life safety issues. The applicant is willing to install a communication system for the hot tubs on the roof if the Board thinks it is necessary.

Ms. Krauth stated that the establishment would offer massage therapy. The Board noted that this use had not been included in the original application but that it could be incorporated by showing a room for this use on the plan and writing about it in the management plan.

The applicants stated that they had met with Jason Skeels, Town Engineer, to discuss issues concerning plumbing, water supply and sanitary sewage and that the Mr. Skeels' concerns would be addressed. Mr. Wilson went on to describe the specific nature of the problems with the sanitary sewer and what could be done to remedy the situation.

Mr. Rising acknowledged that the town may need to put in a new sewer line, and he expressed concern about its condition.

Mr. Krauth reported on his recent conversation with Jason Skeels and stated that Mr. Skeels' main concern was the drainage of the hot tubs, including the amount and rate of flow. Mr. Krauth stated that the drainage is done slowly, with a pump, and will not overwhelm the sanitary line. There was further discussion of the existing sanitary sewer line and the drainage from the tubs. Each tub holds 400 to 450 gallons and is drained once a week. Mr. Krauth stated that the size of the existing line is adequate to serve the needs of his proposed establishment according to the plumbing engineer.

Ms. Krauth stated that the applicants have a Purchase and Sales agreement to purchase the building and that the P & S is contingent on approval of the Special Permit.

The Board discussed potential noise and stated that noise originating from the business should not be heard outside of the building. They expressed concern about sounds emanating from the roof and whether these sounds would be heard by neighbors or on the street. The applicants noted that they did not want noise from one set of customers to disturb the rest of the customers so they will be vigilant about monitoring noise.

Mr. Rising stated that there should be a condition that the hot tubs shall abide by the swimming pool regulations, as stated in an email from Dave Zarozinski of the Health Department, dated February 16, 2006, submitted with regard to a previous application for a hot tub spa at a different location.

The Board discussed the proposed sign. The sign is to be 3'-6" x 30' and will cover a portion of the front of the building. It will be a wooden sign with painted letters. There will be goose neck lights mounted above the sign that will be downcast to light the sign. The colors have not yet been chosen but they will probably be blue and earth tones.

The Board discussed the hours of operation and when the last hot tub would be scheduled. Ms. Krauth stated that the last tub would be rented at 11:00 p.m. and the establishment would close at 12:00 midnight.

There was further discussion about the closing time.

Paige Matteson of 351 Main Street spoke in opposition to the application. She occupies one of the third floor apartments and is a permanent resident. She enjoys her east view and her porch. She expressed concern that the view will be blocked by the roof top walls and also that there will be noise late at night. She is worried about future uses of the hot tub establishment after the current applicants have sold the business.

Louis Greenbaum of 298 Montague Road, the owner of 351 Main Street, submitted a letter to the Board, dated May 1, 2006. He read the letter to the Board, expressing strong opposition to the application and referring to the requirements of Sections 9.22 and 10.38 of the Zoning Bylaw. He asked the Board to deny the Special Permit. He mentioned the problem of sight lines from adjacent multi-story buildings, potential noise problems and late night hours.

Jim Lumley of 24 Harkness Road, Pelham, expressed concerns regarding the shared roof and common wall between the Hapco space (which he is planning to purchase) and the Fenton's space (which the Krauths are planning to purchase). Of particular concern is a chimney that may be blocked. The chimney may be connected to the boiler in the Hapco basement.

Nora Maroulis of 2 Bray Court, Pelham, a business partner of Mr. Lumley, who is planning to establish an art gallery in the Hapco space, expressed concerns about the possibility of trespass from the roof of the hot tub spa, over the common wall, to the roof of the Hapco building.

The Board discussed the issues of the chimney, the roof and the common wall. The Board discussed the height of the proposed enclosures. The Krauths noted that they would not remove a chimney that was being used and that they would make sure that the chimney remained operational, as far as they were able.

Mark Snow, Assistant Building Commissioner, asked about the common wall and whether it was a true fire wall.

Mr. Rising presented a letter that the Board had received from Ted Sherburne of 351 Main Street. Mr. Rising summarized the contents of the letter, dated April 28, 2006, which urged the Board to deny the application.

Mr. Krauth responded to the letter from Mr. Sherburne, stating that Fenton's Athletic Supply was given an opportunity to purchase the Fenton's building and they declined. Fenton's will probably be displaced no matter who purchases the building. He also noted that the building is not visually attractive now but will be improved as a result of the renovations planned for the hot tub spa.

Ms. Ashby MOVED to close the evidentiary portion of the public hearing. Mr. Frank SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

**Public Meeting – Discussion:** May 1, 2006

The Board discussed the application. Ms. Ashby asked about the hours of Bruno's Pizza which has take-out and delivery service. Mr. Snow called Bruno's during a recess in the public meeting and reported the following information with regard to Bruno's hours, for pick-up and delivery:

Sunday through Wednesday	11 a.m. to 1 a.m.
Thursday	11 a.m. to 2 a.m.
Friday and Saturday	11 a.m. to 3 a.m.

The Board discussed the roof and how it is sloped. They also discussed the drainage of storm water from the roof.

Mr. Frank stated that he believed that the issues related to the sanitary sewer could be handled by the Town Engineer in consultation with the applicant, that the issue of the sight lines did not pose a problem, and that he was not concerned about excessive noise since the clientele would be primarily adults, not college students. Mr. Rising agreed that the clientele would not be noisy because of his personal experience at East Heaven Hot Tubs in Northampton as well as at Hampshire Fitness. Mr. Frank added that most of the noise will be from cars and car doors and that there are already cars in the neighborhood, at Bruno's.

The Board discussed the fact that the sanitary sewer issue could be worked out between the applicant and the Town Engineer. They discussed the hours and Ms. Ashby suggested a closing time of 11:00 p.m. on weekdays and that after 10:00 p.m. the tubs could be rented by the hour, rather than the half hour.

The applicant noted that most of the clients' cars would be parked in the Gillen parking lot, which is recessed into the ground, behind the building at 365-377 Main Street, and that therefore the cars would be farther from residences than the cars at Bruno's Pizza, and therefore less bothersome.

The Board discussed potential conditions, including rental of hot tubs after 10 p.m. for 1 hour time slots, rather than ½ hour slots, closing times that were earlier, and the possibility of the applicant coming back in 1 or 2 years to extend the hours.

Mr. Krauth expressed concern about limiting the hours because of the business plan that he has developed.

Mr. Snow recommended that the waiver for the setback for the exterior structures should be specifically voted on as part of the permit, if the Board chooses to grant it. He also stated that the massage therapy should be specifically included in the permit along with mention of the expansion of a non-conforming building.

**Public Meeting – Decision:** May 1, 2006

Mr. Frank MOVED to approve the application with conditions. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to approve the application with conditions.

**Re-opened Public Hearing:** June 20, 2006

After discussions with neighbors, Mr. Krauth submitted a letter, dated May 23, 2006, requesting that the public hearing for this application be re-opened in order to discuss several proposed changes to the management plan and the building plans, which would respond to concerns of the neighbors.

Legal advertisements were published on June 6 and June 13, 2006, in the Daily Hampshire Gazette, and notices were sent to abutters on June 5, 2006 regarding the request to reopen the public hearing on the application for the Special Permit.

Mr. Rising MOVED to reopen the public hearing as requested by Jeffrey Krauth. Mr. Frank SECONDED the motion. The Board VOTED unanimously to reopen the public hearing.

At the public hearing Mr. Rising read the letter from Jeffrey Krauth, dated May 23, 2006, requesting that the hearing be reopened in order to discuss proposed changes to the site and floor plans and the management plan. The proposed changes are as follows:

- Decrease the number of hot tub spa rooms from 7 to 5, with 3 inside and 2 outside;
- Eliminate the 4 roof-top hot tub spas and eliminate the exterior stairway;
- Add 2 hot tub garden spas at the rear of the building;
- Provide a locking mechanism to secure the garden spa rooms when the establishment is closed;
- Add licensed massage therapy and other healing body work;
- Add steam and sauna options in the indoor spa rooms;
- Change the hours of operation to close at 11 p.m. on weekdays and Sundays and 12 midnight on Fridays and Saturdays and request a reconsideration of the hours in one year.

Mr. Krauth commented that the applicants were proposing a few more changes since the letter was written. These changes are as follows:

- The proposed hours of operation will be 8 a.m. to 11 p.m. on weekdays and Sundays and 8 a.m. to 12 midnight on Fridays and Saturdays;
- The two outdoor hot tubs need a locking mechanism but a garage door will not work; they will explore other options with the Building Commissioner and possibly use an alarm system;
- The applicants are also exploring the possibility of installing plants in the garden rooms.

Kyle Wilson of Integrity Builders made the following statements and presented the following information:

- The parking will be the same as previously described;

- Access from the rear parking lot to the business will be via the front door;
- Existing photographs of the building and property were shown;
- The existing roof will probably remain intact if it can be repaired to correct leaking;
- The slope of the roof may need to be adjusted;
- The first floor interior plan will remain the same as previously described;
- The outdoor enclosures will be built within 5 feet of the rear property line and 0 feet of the side property lines;
- Trash and recycling will be stored outside, behind the garden hot tub rooms;
- Exterior lighting will be the same as previously described;
- The exterior walls will be constructed of concrete block and will be fire-rated since they are close to the property line;
- The western-most wall of the garden rooms will be 12 feet high to block sight lines from adjacent properties;
- The roof over the walkway between the two garden rooms will block sight lines as well;
- A drawing of buildings along Main Street in the vicinity of the property was shown and there was a discussion about the blocking of views from various points in those buildings;
- The sign will be the same as previously described;
- Elevations of the proposed structures were shown and it was reported that the outdoor hot tubs may have a trellis or pergola over them.

The Board discussed with the Krauths and with Mr. Wilson the nature of the garden rooms, the possibility of container plants and the feeling of airiness that the rooms will have even though they are not entirely open to the sky. They discussed the addition of saunas and steam baths to the hot tub enclosures. They discussed the proximity of the rear enclosure walls to the rear property line and acknowledged that this would mean the loss of potential parking directly behind the building. The Board noted the locations of the proposed parking spaces in front of the building and the spaces on an adjacent property that the Krauths are planning to lease from Bill Gillen, the owner of that property. They discussed snow removal from the hot tub garden rooms.

Diana Krauth stated that massage therapy will be offered in the space marked “office”.

The public commented as follows:

Hilda Greenbaum of 298 Montague Road disclosed that she is an associate member of the Zoning Board of Appeals. She is attending this meeting and presents comments in her role as a citizen of Amherst and not as a member of the Board. She and her husband own 351 Main Street. She had spoken with the Krauths about the proposed changes and agreed with the changes. She suggested adding the morning hours. She recommended removing the parapet wall in front of the building because it acts as a dam for water falling on the roof. She asserted that it is not historically significant and it was added after the fire in the 1980's.

Louis Greenbaum of 298 Montague Road, owner of 351 Main Street, stated that he had protested the initial application and the granting of the Special Permit but now, after talking with the Krauths, he is satisfied that his concerns have been accommodated. He stated that the reservations and doubts of the other neighbors had also been assuaged. He and the neighbors now support the proposal. A derelict building is being improved which will be good for the community. He asked about the proposed pergola.

Mr. Wilson stated that the pergola (if built) would be adjacent to the exterior walls on the east and west sides of the garden rooms, over the hot tub areas, but the hot tubs would still be open to the sky. There will be a sense of enclosure but the view of the sky will not be blocked. The Board, the Greenbaums and the applicant discussed the proposed roof over the exterior walkway and the proposed pergolas. The pergolas will not change the sight lines from adjacent properties.

Russ Frank MOVED to close the evidentiary portion of the public hearing. Jane Ashby SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

**Public Meeting – Discussion:**

The Board discussed the conditions that should be imposed on the Special Permit. They discussed the chimney that is shared by the two adjacent buildings. They discussed what should happen upon change of ownership and the hours of operation.

Mr. Frank MOVED to approve the drawings and management plan as revised. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to approve the drawings and management plan as revised.

Ms. Krauth stated that she and Mr. Krauth were happy to work with the neighbors and were pleased that the neighbors were supportive of their business as reflected in the revised plans and management plan. She stated that she was proud to be part of the community.

**Public Meeting – Findings:**

Under Zoning Bylaw Section 10.38 the Board found that:

- 10.380 and 10.381 The proposal is suitably located in the neighborhood in which it is proposed and is compatible with existing uses because it is located in a Commercial Zone, there are other businesses nearby, it is located on a heavily-traveled street and is located in a building that has been used for retail purposes for many years.
- 10.382 and 10.385 The proposal will not constitute a nuisance because the applicant will work with the Town Engineer regarding the plumbing and drainage issues, lights will be downcast, roof top hot tubs have been eliminated and no music will be allowed outside of the building.
- 10.383 The proposal will not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because there is ample parking available for lease on a property adjacent to the site, and primary access to the building will be from a public sidewalk at the front of the building; the front entry will be made universally accessible.
- 10.384 Adequate and appropriate facilities will be provided for the proper operation of the proposed use because the building will be renovated to accommodate the new uses, the enclosure walls of the garden rooms will be high enough to provide privacy, the renovations have been carefully designed by the builder and reviewed by the Board and the Management Plan clearly describes the uses that will occur on site.
- 10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the Bylaw because the applicant has presented a parking plan that includes leasing spaces from an adjacent landowner and using public spaces along Main Street, both metered and un-metered. The preliminary sign design has been presented and approved by the Board and a condition of the Special Permit requires that the final sign design be presented to the Board for review and approval at a public meeting.
- 10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water because the conditions of the Special Permit require that the applicant submit to the Building Commissioner documentation that the applicant has satisfied the requirements

of the Town Engineer with regard to plumbing and storm drainage and the management plan adequately addresses issues regarding trash and recyclables.

10.391 – The proposal protects unique or important natural, historic or scenic features because the Historical Commission has commented favorably on the proposal.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, because a condition of the Special Permit requires that exterior lighting shall be downcast.

10.395 – The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationships thereto because the renovations have been carefully designed by the builder in cooperation with the Board and adjacent building owners.

10.398 – The proposal is in harmony with the general purpose and intent of this Bylaw because it promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Mr. Frank MOVED to approve the Special Permit to expand the building, to add exterior garden rooms at first floor level, to waive the side and rear setback requirements for the garden rooms and to operate a hot tub spa business with massage therapy and healing body work. Mr. Rising SECONDED the motion.

**Public Meeting – Decision:**

For all the reasons stated above the Board VOTED unanimously to GRANT a Special Permit, with conditions, under Section 9.22 of the Zoning Bylaw, as applied for by Jeffrey Krauth, to expand the building, to add exterior garden rooms at first floor level, to waive the side and rear setback requirements for the garden rooms and to operate a hot tub spa business with massage therapy and healing body work, at 365-377 Main Street (Map 14B, Parcel 61, COM Zone).

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TED RISING

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RUSS FRANK

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JANE ASHBY

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.

NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

Town of Amherst  
Zoning Board of Appeals

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit, under Section 9.22 of the Zoning Bylaw, as applied for by Jeffrey Krauth, to expand the building, to add exterior garden rooms at the first floor level, to waive the side and rear setback requirements for the garden rooms and to operate a hot tub spa business with massage therapy and healing body work, at 365-377 Main Street (Map 14B, Parcel 61, COM Zone), with the following conditions:

1. Background music shall not be heard outside the building beyond the property line.
2. The applicant shall coordinate work within the building and on the roof to accommodate the common chimney shared with the building to the east. The operation of this chimney shall not be obstructed.
3. The project shall be built according to the plans approved by the Board on June 20, 2006.
4. The establishment shall be managed in accordance with the management plan approved by the Board on June 20, 2006.
5. All exterior lights shall be downcast and shall not shine onto adjacent properties or streets.
6. Signs shall be submitted to the Board for review and approval at a public meeting prior to installation.
7. The hours of operation shall be as follows:

8 a.m. to 11 p.m.	Sunday through Thursday
8 a.m. to 12 midnight	Friday and Saturday
8. Prior to the issuance of a Building Permit the applicant shall submit to the Building Commissioner documentation that the applicant has satisfied the requirements of the Town Engineer, Jason Skeels, as outlined in his letter dated April 28, 2006, to the Zoning Board of Appeals.
9. Prior to the issuance of a Building Permit the applicant shall submit to the Building Commissioner documentation that the applicant has satisfied the requirements of the Health Department with respect to hot tub spas.
10. Upon change of ownership of the business a new Management Plan shall be submitted to the Board for review and approval at a public meeting.
11. Licensed massage therapy and healing body work practitioners shall be trained, certified and shall operate their practices in accordance with the laws, rules and regulations of the Commonwealth of Massachusetts and the Town of Amherst.

12. If the pergolas and/or trellises proposed for the garden hot tub rooms are eliminated, revised plans shall be submitted to the Board for review and approval at a public meeting.
13. If the brick parapet wall at the front of the building is proposed to be removed or altered in any way (other than for cleaning and repair) or if the existing roof structure is proposed to be substantially altered, prior to any such alterations being made, the review and recommendation of the Historical Commission shall be obtained concerning the proposed changes, and revised plans and elevations shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.

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TED RISING, Chair  
Amherst Zoning Board of Appeals

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DATE